

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Local Government and Elections, to which was referred Senate Bill No. 555, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 3, line 36, delete "action" and insert "**auction**".
- 2 Page 4, line 38, after "certified mail" insert ", **return receipt**
- 3 **requested,**".
- 4 Page 5, line 4, delete "." and insert "**to the owners from whom the**
- 5 **certified mail return receipt was not signed and returned.**
- 6 **Additionally, the county auditor may determine that mailing a first**
- 7 **class notice to or serving a notice on the property is a reasonable**
- 8 **step to notify the owner, if the address of the owner is not the same**
- 9 **address as the physical location of the property.**".
- 10 Page 8, line 34, delete "fund without prior appropriation." and insert
- 11 "**fund.**".
- 12 Page 11, line 2, delete "later" and insert "**earlier**".
- 13 Page 11, delete lines 15 through 42, begin a new paragraph and
- 14 insert:
- 15 "SECTION 9. IC 6-1.1-25-4.6, AS AMENDED BY P.L.169-2006,
- 16 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 17 JULY 1, 2007]: Sec. 4.6. (a) After the expiration of the redemption
- 18 period specified in section 4 of this chapter but not later than six (6)
- 19 months after the expiration of the period of redemption:

1 (1) the purchaser, the purchaser's assignee, the county executive,
2 or the purchaser of the certificate of sale under IC 6-1.1-24 may;
3 or

4 (2) in a county where the county auditor and county treasurer
5 have an agreement under section 4.7 of this chapter, the county
6 auditor shall, upon the request of the purchaser or the purchaser's
7 assignee;

8 file a verified petition in the same court and under the same cause
9 number in which the judgment of sale was entered asking the court to
10 direct the county auditor to issue a tax deed if the real property is not
11 redeemed from the sale. Notice of the filing of this petition shall be
12 given to the same parties and in the same manner as provided in section
13 4.5 of this chapter, except that, if notice is given by publication, only
14 one (1) publication is required. The notice required by this section is
15 considered sufficient if the notice is sent to the address required by
16 section 4.5(d) of this chapter. Any person owning or having an interest
17 in the tract or real property may file a written objection to the petition
18 with the court not later than thirty (30) days after the date the petition
19 was filed. If a written objection is timely filed, the court shall conduct
20 a hearing on the objection.

21 (b) Not later than sixty-one (61) days after the petition is filed under
22 subsection (a), the court shall enter an order directing the county
23 auditor (on the production of the certificate of sale and a copy of the
24 order) to issue to the petitioner a tax deed if the court finds that the
25 following conditions exist:

26 (1) The time of redemption has expired.

27 (2) The tract or real property has not been redeemed from the sale
28 before the expiration of the period of redemption specified in
29 section 4 of this chapter.

30 (3) Except with respect to a petition for the issuance of a tax deed
31 under a sale of the certificate of sale on the property under
32 IC 6-1.1-24-6.1, all taxes and special assessments, penalties, and
33 costs have been paid.

34 (4) The notices required by this section and section 4.5 of this
35 chapter have been given.

36 (5) The petitioner has complied with all the provisions of law
37 entitling the petitioner to a deed.

38 The county auditor shall execute deeds issued under this subsection in

the name of the state under the county auditor's name. If a certificate of sale is lost before the execution of a deed, the county auditor shall issue a replacement certificate if the county auditor is satisfied that the original certificate existed.

(c) Upon application by the grantee of a valid tax deed in the same court and under the same cause number in which the judgment of sale was entered, the court shall enter an order to place the grantee of a valid tax deed in possession of the real estate. The court may enter any orders and grant any relief that is necessary or desirable to place or maintain the grantee of a valid tax deed in possession of the real estate.

(d) Except as provided in subsections (e) and (f), if:

(1) the verified petition referred to in subsection (a) is timely filed; and

(2) the court refuses to enter an order directing the county auditor to execute and deliver the tax deed because of the failure of the petitioner under subsection (a) to fulfill the requirements notice requirement of this section; subsection (a);

the court shall order the return of the ~~purchase price amount, if any, by which the purchase price exceeds the minimum bid on the property under IC 6-1.1-24-5(e)~~ minus a penalty of twenty-five percent (25%) of the amount of the purchase price: **that excess. The petitioner is prohibited from participating in any manner in the next succeeding tax sale in the county under IC 6-1.1-24. The county auditor shall deposit** penalties paid under this subsection ~~shall be deposited~~ in the county general fund.

(e) Notwithstanding subsection (d), in all cases in which:

(1) the verified petition referred to in subsection (a) is timely filed;

~~(1)~~ **(2)** the petitioner under subsection (a) has made a bona fide attempt to comply with the statutory requirements under subsection (b) for the issuance of the tax deed but has failed to comply with these requirements; ~~and~~

~~(2)~~ **(3)** the court refuses to enter an order directing the county auditor to execute and deliver the tax deed because of the failure to comply with these requirements; **and**

(4) the purchaser, the purchaser's successors or assignees, or the purchaser of the certificate of sale under IC 6-1.1-24 files a claim with the county auditor for refund not later than

thirty (30) days after the entry of the order of the court refusing to direct the county auditor to execute and deliver the tax deed;

the county auditor shall not execute the deed but shall refund the purchase money ~~plus six percent (6%) interest per annum~~ **minus a penalty of twenty-five percent (25%) of the purchase money** from the county treasury to the purchaser, the purchaser's successors or assignees, or the purchaser of the certificate of sale under IC 6-1.1-24. **The county auditor shall deposit penalties paid under this subsection in the county general fund. All the delinquent taxes and special assessments shall then be reinstated and recharged to the tax duplicate and collected in the same manner as if the property had not been offered for sale.** The tract or item of real property, if it is then eligible for sale under IC 6-1.1-24, shall be placed on the delinquent list as an initial offering under ~~IC 6-1.1-24-6~~ **IC 6-1.1-24.**

(f) Notwithstanding subsections (d) and (e), the court shall not order the return of the purchase price **or any part of the purchase price** if:

- (1) the purchaser or the purchaser of the certificate of sale under IC 6-1.1-24 has failed to provide notice or has provided insufficient notice as required by section 4.5 of this chapter; and
- (2) the sale is otherwise valid.

(g) A tax deed executed under this section vests in the grantee an estate in fee simple absolute, free and clear of all liens and encumbrances created or suffered before or after the tax sale except those liens granted priority under federal law, and the lien of the state or a political subdivision for taxes and special assessments that accrue subsequent to the sale. However, the estate is subject to all easements, covenants, declarations, and other deed restrictions and laws governing land use, including all zoning restrictions and liens and encumbrances created or suffered by the purchaser at the tax sale. The deed is prima facie evidence of:

- (1) the regularity of the sale of the real property described in the deed;
- (2) the regularity of all proper proceedings; and
- (3) valid title in fee simple in the grantee of the deed.

(h) A tax deed issued under this section is incontestable except by appeal from the order of the court directing the county auditor to issue the tax deed filed not later than sixty (60) days after the date of the

- 1 court's order."
- 2 Delete pages 12 and 13.
- 3 Page 14, delete lines 1 through 3.
- 4 Page 14, line 4, delete "[EFFECTIVE JULY 1, 2007]" and insert
- 5 "[EFFECTIVE UPON PASSAGE]".
- 6 Page 14, line 38, delete "HEA 1102-2005," and insert "**HEA**
- 7 **1102-2006**".
- 8 Page 15, line 4, delete "[EFFECTIVE JULY 1, 2007]" and insert
- 9 "[EFFECTIVE UPON PASSAGE]".
- 10 Page 16, line 14, delete "HEA 1102-2005," and insert "**HEA**
- 11 **1102-2006**".
- 12 Page 16, after line 21, begin a new paragraph and insert:
- 13 "SECTION 12. [EFFECTIVE JULY 1, 2007] **IC 6-1.1-25-4.6, as**
- 14 **amended by this act, applies only to:**
- 15 **(1) tax sales held after June 30, 2007; and**
- 16 **(2) failures of tax sale petitioners to fulfill tax sale**
- 17 **requirements under that section after June 30, 2007.**
- 18 SECTION 13. **An emergency is declared for this act.**"
- 19 Renumber all SECTIONS consecutively.
- (Reference is to SB 555 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 9, Nays 0.

Lawson C

Chairperson